

***SECTION 14 - VARIANCES**

14.1 PURPOSE - The hearing body may grant variances to any and all site development standards to prevent or lessen practical difficulties and unnecessary physical hardships inconsistent with the objectives of the Zoning Ordinance which may result, under specific circumstances, from the strict or literal interpretations of the regulations prescribed therein. The hearing body shall review all requests to variances to site development standards in excess of 10 percent of said standard(s). The Director of Community Development may administratively grant Exceptions to commercial and manufacturing site development standards up to an including 10 percent relief of said standard(s) as prescribed by Section 14.9 herein.

14.2 APPLICATION - Application for a Variance or Administrative Exception shall be made to the Director of Community Development upon a form prescribed by the Director.

The application shall contain or be accompanied by the following data and no application shall be accepted unless it is complete and in compliance with the requirements set forth herein:

(a) Name and address of applicant.

** (b) A Statement certifying under penalty of perjury that the applicant is the owner of the property, the authorized agent of the owner, or the master developer. Permits issued to the master developer shall not become effective until and unless ownership or lawful possession of the subject property is transferred to the master developer, or is a master developer authorized by the owner to implement the master development plan, and the Redevelopment Agency approves a master development plan.

(c) Address or description of the property.

(d) For Variance applications a map showing the boundaries of the subject parcel and each separate lot or parcel within 300 feet of the exterior boundaries thereof together with a list, of the names and addresses of the last known owners of each lot or parcel insofar as they are of public record. For Administrative Exception applications a map of the subject parcel and adjacent parcels which is defined as parcels that share a property line, together with a list of the last known owners of each lot or parcel insofar as they are of public record.

(e) A statement of the precise nature of the Variance requested and the practical difficulties or unnecessary physical hardship inconsistent with the objectives of the Zoning Plan, which would result from the strict or literal interpretation and enforcement of a specified regulation of this Ordinance, together with any other data pertinent to the findings prerequisite to the granting of a Variance prescribed in Section 14.5.1 herein. A statement to the precise nature of the Administrative Exception being requested and the reasons, including any difficulties or overall

* Amended by Ord. #872, 7/15/93

** Amended by Ord. #877, 2/22/94

development objectives, pertaining to the reasons the Administrative Exception is being requested.

- (f) An accurate scale drawing of the site showing the contours at intervals of not more than five feet and locations of any existing and proposed streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.
- (g) Such other information, plans, maps and data which may be necessary to assure a full presentation of pertinent facts for the record and to assist in making a determination in harmony with the objectives of this Ordinance.

14.3 FEE - The application shall be accompanied by a receipt showing that an application fee in accordance with the fee schedule established by the City Council has been paid to the Secretary of the Planning Commission and/or the Director of Community Development.

14.4 HEARING BY COMMISSION - The Commission shall hold a public hearing within 40 days after acceptance of the application for a Variance by the Secretary of the Planning Commission.

14.4.1 Notice of the time, place and purpose of each such public hearing shall be given in the manner set forth in Section 11.4.1 herein.

14.5 ACTION BY THE COMMISSION - The Commission shall receive, investigate, hear and take action upon every application for a Variance which is submitted in full accordance with the procedures set forth in Section 14.2 herein.

14.5.1 LIMITATIONS - The hearing body may grant a Variance to a development standard prescribed by the Zoning Ordinance as the variance was applied for, or in modified form, if on the basis of the application and evidence submitted the following findings are made:

- (a) The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Zoning Plan.
- (b) There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.
- (c) The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.
- (d) The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.

- (e) The granting of the Variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

14.5.2 **LIMITATIONS: PARKING AND LOADING** - The Commission may grant a Variance to a regulation prescribed by this Ordinance with respect to off-street parking facilities or off-street loading facilities, as the Variance was applied for or in modified form if, on the basis of the application and the evidence submitted, the Commission makes the findings prescribed in paragraphs (a) through (e) of Section 14.5.1 and if, on the basis of the Commission's investigation, it makes the following additional findings:

- (a) That neither present nor anticipated future traffic volumes generated by the use of the site, or the uses of sites in the vicinity, reasonably require strict or literal interpretation and enforcement of the specified regulation.
- (b) That the granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.
- (c) That the granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of the Zoning Plan.

14.5.3 **CONDITIONS OF APPROVAL** - In approving any application for a Variance or an Administrative Exception the Commission or the Director of Community Development may make approval contingent upon conformity to plans and drawings submitted with the application and the acceptance and observance by the applicant of any specified conditions which the Commission or the Director of Community Development finds necessary to protect and advance the objectives of this Ordinance and the General Plan.

14.5.4 **DENIAL** - The Commission or the Director of Community Development shall deny an application under their respective review if all findings for approval cannot be made.

14.6 **EFFECT** - A Variance and/or Administrative Exception shall become effective 10 days following the date on which the request is granted unless subject to an appeal. Decisions of the Director of Community Development may be appealed to the Planning Commission. Decisions of the Planning Commission may be appealed to the City Council. A Variance or Administrative Exception, which has been the subject of an Appeal to the City Council, shall become effective 3 days following the date on which the Variance or Administrative Exception is granted.

No building or zoning permit shall be issued in any case where a Variance is required by the terms of this Ordinance unless such Variance has been granted in the manner set forth herein.

Any Variance granted in the manner set forth herein shall run with the land and no such Variance shall be transferable.

- * 14.7 LAPSE OF VARIANCE OR ADMINISTRATIVE EXCEPTION AND EXTENSION OF TIME - A Variance or Administrative Exception shall lapse and shall become null and void one year following the date on which it became effective, unless prior to the expiration of one year, a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site, or a certificate of occupancy is issued by the Building Official for the site which was the subject of the Variance or Administrative Exception application. Extensions of time shall be governed by Section 10.5.
- 14.8 REVOCATION - A Variance or Administrative Exception shall be deemed null and void upon a finding by the Director of Community Development that the property for which such Variance or Administrative Exception has been granted is in violation of any applicable provision of this Ordinance, or that there has been failure to comply with any condition or conditions imposed in the granting of such Variance or Administrative Exception.
- 14.9 ADMINISTRATIVE EXCEPTIONS TO SITE DEVELOPMENT STANDARDS WITHIN ALL COMMERCIAL AND MANUFACTURING DISTRICTS - The Director of Community Development shall receive, investigate, and take action upon every application for an Administrative Exception which is submitted in full accordance with the procedures set forth in Section 14.9 herein.
- 14.9.1 LIMITATIONS - The Director of Community Development shall grant an Administrative Exception to development standard(s) prescribed by the Zoning Ordinance as the Exception was applied for, or in modified form, if on the basis of the application and evidence submitted the findings prescribed in Section 14.5.1, 14.5.2 of this Ordinance as applicable, and the following findings are made:
- For All Administrative Exceptions:
- (a) The cumulative effect of any previously approved variances and Administrative Exceptions will not result in the requested development standard alteration exceeding 10 percent.
- For Administrative parking Exceptions the following additional findings shall be made:
- (b) That there exists adequate on-site and on-street parking in the area of the subject site; or the availability of public parking on-site on a separate parcel exists; or the mix of uses on the site justify reducing standards; or that size factors warrant modification of dimension of stalls to maximize parking opportunities.
- (c) No other Planning Commission entitlements are required.

* Amended by Ord. #906, 7/11/96

For Administrative Landscape Exceptions the following additional finding shall be made:

- (d) The proposed size and placement of landscaping will provide for the maximum public benefit as viewed from public right-of-ways and is of a quality and intensity that substantially meets the intent of the applicable landscape regulations.

14.9.2 NOTICE OF ADMINISTRATIVE DECISION AND APPEAL PROCEDURE –
The following procedures shall apply when the Director of Community Development takes action on an administrative exception:

- (a) Notice of action shall be sent to the applicant via U.S. mail.
- (b) Notice of action approving an application shall be made to the City Council, Planning Commission, and adjacent property owners stating the opportunity to file a written appeal.
- (c) A ten (10) day appeal period shall commence from the date of mailing of the notice of action.